

1 AN ACT concerning fire safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Cigarette Fire Safety Standard Act.

6 Section 5. Definitions. As used in this Act:

7 "Agent" means any person licensed by the Department of  
8 Revenue to purchase and affix adhesive or meter stamps on  
9 packages of cigarettes.

10 "Cigarette" means any roll for smoking, whether made wholly  
11 or in part of tobacco or any other substance, irrespective of  
12 size or shape, and whether or not such tobacco or substance is  
13 flavored, adulterated, or mixed with any other ingredient, the  
14 wrapper or cover of which is made of paper or any other  
15 substance or material except tobacco.

16 "Manufacturer" means:

17 (1) any entity that manufactures or otherwise produces  
18 cigarettes or causes cigarettes to be manufactured or  
19 produced anywhere that the manufacturer intends to be sold  
20 in this State, including cigarettes intended to be sold in  
21 the United States through an importer;

22 (2) the first purchaser anywhere that intends to resell  
23 in the United States cigarettes manufactured anywhere that  
24 the original manufacturer or maker does not intend to be  
25 sold in the United States; or

26 (3) any entity that becomes a successor of an entity  
27 described in items (1) or (2) of this definition.

28 "Repeatability" means the range of values within which the  
29 repeat results of cigarette test trials from a single  
30 laboratory will fall 95% of the time.

31 "Retail dealer" means any person, other than a manufacturer  
32 or wholesale dealer, engaged in selling cigarettes or tobacco

1 products.

2 "Sale" means any transfer of title or possession or both,  
3 exchange or barter, conditional or otherwise, in any manner or  
4 by any means whatever or any agreement therefor. In addition to  
5 cash and credit sales, the giving of cigarettes as samples,  
6 prizes, or gifts and the exchanging of cigarettes for any  
7 consideration other than money are considered sales.

8 "Sell" means to sell, or to offer or agree to do the same.

9 "Quality control and quality assurance program" means the  
10 laboratory procedures implemented to ensure that operator  
11 bias, systematic and nonsystematic methodological errors, and  
12 equipment-related problems do not affect the results of the  
13 testing. This program ensures that the testing repeatability  
14 remains within the required repeatability values stated in  
15 subsection (e) of Section 15 of this Act for all test trials  
16 used to certify cigarettes in accordance with this Act.

17 "Wholesale dealer" means any person who sells cigarettes or  
18 tobacco products to retail dealers or other persons for  
19 purposes of resale, and any person who owns, operates, or  
20 maintains one or more cigarette or tobacco product vending  
21 machines in, at, or upon premises owned or occupied by any  
22 other person.

23 Section 10. General requirements.

24 (a) On and after the effective date of this Act, no  
25 cigarettes shall be sold or offered for sale to any person in  
26 this State unless:

27 (1) the cigarettes have been tested in accordance with  
28 the test method prescribed in Section 15 of this Act;

29 (2) the cigarettes meet the performance standard  
30 specified in Section 20 of this Act; and

31 (3) a written certification has been filed by the  
32 manufacturer with the Office of the State Fire Marshal and  
33 the Office of Attorney General in accordance with Section  
34 30 of this Act.

35 (b) Nothing in this Act prohibits wholesale dealers or

1 retail dealers from selling their inventory of cigarettes  
2 existing on the effective date of this Act, provided that the  
3 wholesale dealer or retail dealer can establish that tax stamps  
4 were affixed to the cigarettes pursuant to Section 3 of the  
5 Cigarette Tax Act before the effective date of this Act, and  
6 provided further that the wholesale dealer or retail dealer can  
7 establish that the inventory was purchased before the effective  
8 date of this Act in comparable quantity to the amount of  
9 inventory purchased during the same period of the prior year.

10 (c) Nothing in this Act shall be construed to prohibit any  
11 person or entity from selling or offering for sale cigarettes  
12 that have not been certified by the manufacturer in accordance  
13 with Section 30 of this Act if the cigarettes are or will be  
14 stamped for sale in another state or are packaged for sale  
15 outside the United States.

16 Section 15. Test method.

17 (a) Testing of cigarettes shall be conducted in accordance  
18 with the American Society of Testing and Materials ("ASTM")  
19 standard E2187-04, "Standard Test Method for Measuring the  
20 Ignition Strength of Cigarettes". The Office of the State Fire  
21 Marshal may adopt a subsequent ASTM Standard Test Method for  
22 Measuring the Ignition Strength of Cigarettes upon a finding  
23 that the subsequent method does not result in a change in the  
24 percentage of full-length burns exhibited by any tested  
25 cigarette when compared to the percentage of full-length burns  
26 the same cigarette would exhibit when tested in accordance with  
27 ASTM Standard E2187-04 and the performance standard in Section  
28 20 of this Act.

29 (b) Testing shall be conducted on 10 layers of filter  
30 paper.

31 (c) Forty replicate tests shall comprise a complete test  
32 trial for each cigarette tested.

33 (d) The performance standard required by Section 20 of this  
34 Act shall only be applied to a complete test trial.

35 (e) Laboratories conducting testing in accordance with

1 this Section shall implement a quality control and quality  
2 assurance program that includes a procedure that will determine  
3 the repeatability of the testing results. The repeatability  
4 value shall be no greater than 0.19 pursuant to Section 20 of  
5 this Act.

6 (f) This Section does not require additional testing if  
7 cigarettes are tested consistent with this Act for any other  
8 purpose.

9 Section 20. Performance standard.

10 (a) When tested in accordance with Section 15 of this Act,  
11 no more than 25% of the cigarettes tested in a test trial shall  
12 exhibit full-length burns.

13 (b) Each cigarette listed in a certification submitted in  
14 accordance with Section 30 of this Act that uses lowered  
15 permeability bands in the cigarette paper to achieve compliance  
16 with the performance standard set forth in subsection (a) of  
17 this Section shall have at least 2 nominally identical bands on  
18 the paper surrounding the tobacco column. At least one complete  
19 band shall be located at least 15 millimeters from the lighting  
20 end of the cigarette. For cigarettes on which the bands are  
21 positioned by design, there shall be at least 2 bands fully  
22 located at least 15 millimeters from the lighting end and  
23 either (i) 10 millimeters from the filter end of the tobacco  
24 column, or (ii) 10 millimeters from the labeled end of the  
25 tobacco column for non-filtered cigarettes.

26 (c) The manufacturer or manufacturers of a cigarette that  
27 the Office of the State Fire Marshal determines cannot be  
28 tested in accordance with the test method prescribed in Section  
29 15 of this Act shall propose a test method and performance  
30 standard for such cigarette to the Office of the State Fire  
31 Marshal. Upon approval of the proposed test method and a  
32 determination by the Office of the State Fire Marshal that the  
33 performance standard proposed by the manufacturer or  
34 manufacturers is equivalent to the performance standard  
35 prescribed in subsection (a) of this Section, the manufacturer

1 or manufacturers may employ such test method and performance  
2 standard to certify such cigarette in accordance with Section  
3 30 of this Act. If the State Fire Marshal determines that  
4 another state has enacted reduced cigarette ignition  
5 propensity standards that include a test method and performance  
6 standard that is the same as those contained in this Act, and  
7 the State Fire Marshal finds that the officials responsible for  
8 implementing those requirements have approved the proposed  
9 alternative test method and performance standard for a  
10 particular cigarette proposed by a manufacturer as meeting the  
11 fire safety standards of that state's law or regulation under a  
12 legal provision comparable to this subsection (c), then the  
13 State Fire Marshal shall authorize that manufacturer to employ  
14 the alternative test method and performance standard to certify  
15 that cigarette for sale in this State, unless the State Fire  
16 Marshal demonstrates a reasonable basis why the alternative  
17 test should not be accepted under this Act. All other  
18 applicable requirements of this Act shall apply to such  
19 manufacturer or manufacturers.

20 (d) This Act shall be implemented in accordance with the  
21 implementation and substance of the New York Fire Safety  
22 Standards for Cigarettes.

23 Section 25. Test data. To ensure compliance with the  
24 performance standard specified in Section 20 of this Act, data  
25 from testing conducted by manufacturers to comply with this  
26 performance standard shall be kept on file by the manufacturers  
27 for a period of 3 years and shall be sent to the Office of the  
28 State Fire Marshal upon its request and to the Office of the  
29 Attorney General upon its request.

30 Section 30. Certification.

31 (a) Each manufacturer shall submit a written certification  
32 attesting that:

33 (1) each cigarette listed in the certification has been  
34 tested in accordance with Section 15 of this Act; and

1           (2) each cigarette listed in the certification meets  
2           the performance standard set forth in Section 20 of this  
3           Act.

4           (b) Each cigarette listed in the certification shall be  
5           described with the following information:

6                   (1) brand (i.e., the trade name on the package);

7                   (2) style (e.g., light, ultra light);

8                   (3) length in millimeters;

9                   (4) circumference in millimeters;

10                  (5) flavor (e.g., menthol, chocolate) if applicable;

11                  (6) filter or non-filter;

12                  (7) package description (e.g., soft pack, box); and

13                  (8) marking approved in accordance with Section 40 of  
14           this Act.

15           (c) Each cigarette certified under this Section shall be  
16           re-certified every 3 years.

17           Section 35. Notification of certification. Manufacturers  
18           certifying cigarettes in accordance with Section 30 of this Act  
19           shall provide a copy of the certifications to all wholesale  
20           dealers and agents to which they sell cigarettes, and shall  
21           also provide sufficient copies of an illustration of the  
22           cigarette packaging marking used by the manufacturer in  
23           accordance with Section 40 of this Act for each retail dealer  
24           to which the wholesale dealers and agents sell cigarettes.  
25           Wholesale dealers and agents shall provide a copy of these  
26           cigarette packaging markings received from manufacturers to  
27           all retail dealers to which they sell cigarettes. Wholesale  
28           dealers, agents, and retail dealers shall permit the Office of  
29           the State Fire Marshal, Department of Revenue, and the Office  
30           of the Attorney General to inspect markings of cigarette  
31           packaging marked in accordance with Section 40 of this Act.

32           Section 40. Marking of cigarette packaging.

33           (a) Cigarettes that have been certified by a manufacturer  
34           in accordance with Section 30 of this Act shall be marked to

1 indicate compliance with the requirements of this Act. The  
2 marking shall be in 8-point type or larger and consist of:

3 (1) modification of the product UPC Code to include a  
4 visible mark printed at or around the area of the UPC Code.  
5 The mark may consist of an alphanumeric or symbolic  
6 character or characters permanently stamped, engraved,  
7 embossed, or printed in conjunction with the UPC Code;

8 (2) any visible alphanumeric or symbolic character or  
9 combination of alphanumeric or symbolic characters  
10 permanently stamped, engraved, or embossed upon the  
11 cigarette package or cellophane wrap; or

12 (3) printed, stamped, engraved, or embossed text that  
13 indicates that the cigarettes meet the standards of this  
14 Act.

15 (b) A manufacturer must use only one marking, and must  
16 apply this marking uniformly for all packages including, but  
17 not limited to, packs, cartons, and cases and to brands  
18 marketed by that manufacturer.

19 (c) The Office of the State Fire Marshal must be notified  
20 as to the marking that is selected.

21 (d) Prior to the certification of any cigarette, a  
22 manufacturer shall present its proposed marking to the Office  
23 of the State Fire Marshal for approval. Upon receipt of the  
24 request, the Office of the State Fire Marshal shall approve or  
25 disapprove the marking offered. A marking in use and approved  
26 for the sale of cigarettes in the State of New York shall be  
27 deemed approved. Proposed markings shall be deemed approved if  
28 the Office of the State Fire Marshal fails to act within 10  
29 business days of receiving a request for approval.

30 (e) No manufacturer shall modify its approved marking  
31 unless the modification has been approved by the Office of the  
32 State Fire Marshal in accordance with this Section.

33 Section 45. Penalties; Cigarette Fire Safety Standard Act  
34 Fund.

35 (a) Any manufacturer, wholesale dealer, agent, or other

1 person or entity who knowingly sells cigarettes wholesale in  
2 violation of item (3) of subsection (a) of Section 10 of this  
3 Act shall be subject to a civil penalty not to exceed \$10,000  
4 for each sale of the cigarettes. Any retail dealer who  
5 knowingly sells cigarettes in violation of Section 10 of this  
6 Act shall be subject to the following: (i) a civil penalty not  
7 to exceed \$500 for each sale or offer for sale of cigarettes,  
8 provided that the total number of cigarettes sold or offered  
9 for sale in such sale does not exceed 1,000 cigarettes; (ii) a  
10 civil penalty not to exceed \$1,000 for each sale or offer for  
11 sale of the cigarettes, provided that the total number of  
12 cigarettes sold or offered for sale in such sale exceeds 1,000  
13 cigarettes.

14 (b) In addition to any penalty prescribed by law, any  
15 corporation, partnership, sole proprietor, limited  
16 partnership, or association engaged in the manufacture of  
17 cigarettes that knowingly makes a false certification pursuant  
18 to Section 30 of this Act shall be subject to a civil penalty  
19 not to exceed \$10,000 for each false certification.

20 (c) Upon discovery by the Office of the State Fire Marshal,  
21 the Department of Revenue, the Office of the Attorney General,  
22 or a law enforcement agency that any person offers, possesses  
23 for sale, or has made a sale of cigarettes in violation of  
24 Section 10 of this Act, the Office of the State Fire Marshal,  
25 the Department of Revenue, the Office of the Attorney General,  
26 or the law enforcement agency may seize those cigarettes  
27 possessed in violation of this Act.

28 (d) The Cigarette Fire Safety Standard Act Fund is  
29 established as a special fund in the State treasury. The Fund  
30 shall consist of all moneys recovered by the Attorney General  
31 from the assessment of civil penalties authorized by this  
32 Section. The moneys in the Fund shall, in addition to any  
33 moneys made available for such purpose, be available, subject  
34 to appropriation, to the Office of the State Fire Marshal for  
35 the purpose of fire safety and prevention programs.

1           Section 50. Enforcement. To enforce the provisions of this  
2 Act, the Attorney General may bring an action on behalf of the  
3 people of this State to enjoin acts in violation of this Act  
4 and to recover civil penalties authorized under Section 45 of  
5 this Act.

6           Section 55. Administration. The Office of the State Fire  
7 Marshal shall be responsible for administering the provisions  
8 of this Act.

9           Section 60. Applicability. This Act shall cease to be  
10 applicable if federal fire safety standards for cigarettes that  
11 preempt this Act are enacted and take effect subsequent to the  
12 effective date of this Act and the State Fire Marshal so  
13 notifies the Secretary of State.

14           Section 900. The State Finance Act is amended by adding  
15 Section 5.663 as follows:

16           (30 ILCS 105/5.663 new)

17           Sec. 5.663. The Cigarette Fire Safety Standard Act Fund.

18           Section 999. Effective date. This Act takes effect January  
19 1, 2008.